

627 some pasturage and the fire destroyed two plots of millet. I gave the owner an iron hoe.'

627 The ideal is settlement by agreement; in practice (at the present
692 time) a large number of cases go (like this one) to the chief, and then on to the Native Court. Thence there are many appeals to the Native Appeal Court, the District and Provincial Officers' Courts, and even to the High Court of Tanganyika. As we have indicated, it is likely that fewer cases are settled by arbitration than formerly; but before the coming of the Europeans, chiefs' courts with power to enforce judgement existed, and were used. There was no 'golden age' in which all cases were settled by agreement.

627 The decision of arbitrators is essentially the judgement of
• 208 public opinion in the village, or the respective villages, of the disputants. Cases are heard in public, neighbours drop in and join in the discussion, and a decision cannot be given contrary to their expressed opinions.

b. Witness to contracts

675 Not only do fellow villagers play a part in settling disputes, they also act as official witnesses in various types of legal transaction. The village headman is an essential witness at an autopsy (*vide supra*, p. 116) and at the distribution of the estate of one of his men. Whenever marriage-cattle are handed over, two or more non-relatives are called upon to serve as witnesses,¹ and those chosen are commonly village neighbours of either the groom or his father-in-law. We heard one man censured by his friends because he had neglected to take a village neighbour with him as witness when he went to summon his son-in-law to his daughter's puberty ritual. He had visited his son-in-law's 'best man' (*um-furya*) as was correct, but had omitted to take a friend with him to witness the conversation that took place. Even in matters that are kept very secret at least one official witness may be summoned. For example, an old man occasionally gives his heir permission to sleep with his wives while he is yet alive, and he does so in the presence of a neighbour or senior relative, for though the affair is very private it is absolutely necessary to have a witness to prove that the right was granted.

¹ cf. Godfrey Wilson, 'An Introduction to Nyakyusa Law', *Africa*, Vol. X (1937).

in fact they usually settle on the common East African pattern of scattered homesteads, each in its arable area, and not in the tight Nyakyusa village pattern.

I think that the headmen and chiefs concerned would not welcome a restraint on immigration, for it offers them a chance to emulate the numerically produced prestige of their fellows in the flood plains, to whom at the moment they feel inferior. They would, of course, most probably prefer indigenous Nyakyusa, could the latter be persuaded to settle there. As it is, at least some of the Nyakyusa of these northerly villages are trying to move into the flood plains, where they can more easily cultivate paddy and where they can join in a more active and ebullient village life.

One type of foreigner to the Lake Plains is the man (almost invariably a Nyakyusa from the Highlands) who has obtained land but does not settle on it nor in any village. He continues to live in his upland village and comes down to the plains only to cultivate and harvest his paddy field. This is strictly against Nyakyusa land law and custom and, in fact, such an absentee land-holder has often made a substantial monetary gift to the chief or headman for the protection of this extra-legal privilege. These strangers are frequently among the more wealthy upland Nyakyusa, who can afford such payments as these, and often they are of chiefly rank themselves, perhaps having kinship ties with the local chief. There are probably no chiefdoms where such strangers have not obtained paddy fields, though naturally those which contained a good deal of vacant, usable paddy land at the beginning of the cash-cropping era have most.

This does arouse a certain amount of ill-feeling and opposition amongst local villagers who have insufficient land themselves, for they lose land and gain no numerical strength or profit of any kind. The illegal action of the local chief is also condemned, especially as the chiefs should not in any case assume allocatory powers. On the other hand it must be noted that the commoners philosophically accept the supposedly protected prerogatives of their chiefs under European rule and they expect the chiefs to take advantage of them. As with the case of the minority of large land-holders, the actual effect is not particularly great and reformation here would be a minor palliative. Nevertheless in this matter there is a definite and unpopular infringement of villagers' rights and of the local customary law.

One other group of strangers may be noted for the sake of completeness. That is the Kisi, who have for at least two generations been settling along the lake shore itself from Matema in the east to the Songwe river (and beyond) in the south-west. They have come from the north-eastern shores of the lake and in the Nyakyusa area they are principally fishermen who do not, therefore, compete with the indigenous population economically. They cultivate only tiny plots of casava and sometimes of finger millet, although a few of the younger generation are now trying to grow a little paddy also. The total number of Kisi involved cannot be more than a few hundred and they have probably not increased much over the past decades. They follow an almost separate existence from their Nyakyusa neighbours, not intermarrying, and following their own way of life.¹

1. The main Kisi settlements in Songwe District are in the Usukuma area, an isolated peninsula south of the Lake Tanganyika, where they number about 1,500. Smaller Kisi are scattered in smaller concentrations and in tiny hamlets along the northern shore of Lake Tanganyika. They are widely based on pasture, and they do change their camps for several times a year.